

February 21, 2013

Chelsea H. Fallon
Assistant Chief
Industry Analysis & Technology Division
Wireline Competition Bureau
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

RE: Ex Parte filing WC Docket Nos. 10-90, 05-337, Report and Order, DA 12-1777.

Dear Ms. Fallon,

I am writing to express concerns related to the Federal Communications Commission's (FCC) Report and Order¹ (Report) mandating incumbent local exchange carriers (ILECs) submit certified study area boundary data in ESRI shapefile format to the FCC. Specifically these concerns were expressed during a Staff Subcommittee on Telecommunications panel discussion held on Sunday February 3, 2013 at the National Association of Regulatory Commissioners (NARUC) 2013 Winter Meetings. The Nebraska Public Service Commission (NPSC) has also conducted a workshop to address issues raised by the Report. The following summarizes views with respect to the Report expressed at the NARUC panel discussion and the NPSC's workshop:

- Nebraska is in the process of converting our paper boundary maps to electronic format. The NPSC is the state designated entity for collecting SBI data. We have familiarity with ESRI format shapefiles reflecting broadband service. We agree that ESRI format is a good approach.
- NPSC efforts to collect study area boundary maps from the incumbent LECs in the state began prior to the Report being issued.

¹ See *In the Matter of Connect America Fund High-Cost Universal Service Support*, WC Docket Nos. 10-90, 05-337, Report and Order, DA 12-1777 (rel. Nov. 6, 2012)(Report).

- State regulatory entities that establish exchange boundaries and elect to participate in complying with the Report should be the entities that certify the accuracy of the maps to the FCC, not the individual carriers.
- There is a nexus between state commission approved boundary changes at the sub-exchange level and the annual study area filings provided for in the Report. The NPSC has the authority to make small boundary changes, usually one or two access lines per application. This usually occurs to enable rural customers to receive broadband service from a nearby provider when their current provider is unable to provide the desired broadband service. Resolving this issue would make cooperating on the annual exchange boundary filings more efficient and less expensive in lieu of applying the current waiver rule that carries a significant filing fee.
- Our current goal is to develop ESRI shapefile maps for all exchanges in Nebraska however there may be wisdom in seeking such maps from Rate of Return (ROR) carriers in advance of those to be filed by price cap carriers. In other words spread out the burden of completing the data submissions.

Additional information from the FCC would provide a better understand of the Report in the following areas:

- Explain in further detail the accuracy of the maps the FCC is seeking.
- Address the level of verification necessary for all entities that file maps.
- Release as soon as possible the timeline for the data collection to allow all entities submitting information sufficient time to meet the FCC's deadlines.

In Nebraska the electronic exchange maps in ESRI format shapefiles would be useful in our broadband mapping effort, aide in administering boundary changes subsequent to future approved applications, support any effort where the size of a service provider's footprint is relevant and help determine what ILEC serves a specific address or location. The list would likely grow as more uses are identified.

I have enclosed a copy of Progression Order No. 1 the NPSC entered February 20, 2013, in Docket No. C-4543/PI-186, the proceeding opened by the NPSC to investigate and explore compliance with the filing of electronic maps mandated by the Report. The order specifically seeks comment on concerns expressed by the industry and others at the workshop.

I appreciate the opportunity to present these concerns and issues raised regarding the Report. Please contact me if you have further questions.

Respectfully Submitted,

Maurice Gene Hand
Director
Communications Department
Nebraska Public Service Commission

Chair
NARUC Staff Subcommittee on Telecommunications

In the Matter of the Nebraska) Application No. C-4543/PI-186
Public Service Commission, on) Progression Order No. 1
its own motion, to investigate)
and explore federally mandated)
filing of electronic maps) ORDER SEEKING COMMENT
certifying the study area of)
Incumbent Local Exchange)
Carriers in Nebraska.) Entered: February 20, 2013

BY THE COMMISSION:

O P I N I O N A N D F I N D I N G S

On November 6, 2012, the Wireline Competition Bureau (WCB) of the Federal Communications Commission (FCC) released a Report and Order² (Report) mandating incumbent local exchange carriers (ILECs) submit certified study area boundary data in ESRI shapefile format to the FCC. The Report allows the ILECs, state commissions or state telecommunications associations to submit the ILEC boundary data and also allows for flexibility on how such collection and submission is accomplished.

On December 11, 2012, the Commission opened an investigation to assist with determining and implementing the most efficient method of collecting and submitting the electronic boundary map data to the FCC as mandated by the Report.

The Commission conducted a workshop regarding the issues in the Report on January 16, 2013. Numerous parties participated in the workshop. Based on the discussion and comments made at the workshop, the Commission hereby releases this progression order to seek comment on both the proposed mechanics of collection and compilation of electronic boundary maps and submission of said electronic boundary maps to the FCC. Parties are also encouraged to comment on any additional concerns raised by the Report or discussed in the workshop.

² See *In the Matter of Connect America Fund High-Cost Universal Service Support*, WC Docket Nos. 10-90, 05-337, Report and Order, DA 12-1777 (rel. Nov. 6, 2012)(Report).

Mechanics

The following is proposed by the Commission to enable discussion and comment. The Commission will issue a subsequent order adopting formal findings at a later date.

It is the Commission's tentative conclusion that the Commission is in the best position to assist Nebraska ILECs with the obligation to file electronic boundary maps with the FCC. The Commission maintains official boundary maps that are currently in paper format. The Commission also has ESRI shape files of exchange boundaries that were created for NUSF purposes, however, these maps were created some time ago and may require updating. Additionally, the Commission has already been engaged in the collection and proliferation of electronic ESRI shape files in its broadband mapping efforts. The experience with the broadband mapping project gives the Commission a familiarity with such an undertaking putting the Commission in a unique position to effectively assist and manage the creation and submission of electronic boundary maps to the FCC.

The Commission tentatively proposes that it manage the creation of electronic boundary maps at the Commission, possibly with the assistance of an outside vendor, with the level of financial and labor contribution to the project by the Commission to be determined as the project moves forward.

Undoubtedly there will need to be some level of collaboration between ILECs and the Commission to create a comprehensive electronic boundary map. We do however believe the Commission, as the keeper of the official boundary maps of all the ILECs in Nebraska, should ensure that whatever is ultimately submitted to the FCC is reflected in the boundary maps maintained by the Commission. The Commission however, does not envision just one option for collaboration between the Commission and ILECs to create electronic boundary maps. Instead, the Staff proposes that ILECs have the option of electing the pathway that best suits its needs. The options the Staff is proposing are as follows:

1. The ILEC requests the Commission submit the electronic boundary map in the Commission's possession to the ILEC

for review. The ILEC and Staff then collaborate to compare the map to the paper map maintained by the Commission and any maps maintained by the LEC. Any proposed updates or changes to the map, if necessary, can then be done by the ILEC or in collaboration with the Staff.

2. The ILEC already possess or creates its own electronic boundary map. The ILEC then sends it to the Commission for review. The ILEC and Staff then collaborate to compare the map to the paper map and other maps maintained by the Commission. Any proposed updates or changes to the map, if necessary, can then be done by the ILEC or in collaboration with the Staff.
3. The ILEC already possess or creates its own electronic map. The ILEC requests the electronic map and copy of the Commission's paper map be sent to the ILEC for comparison purposes. Before finalizing the map for Nebraska, the ILEC sends a copy of the map to the Commission for Staff comparison against Commission boundary maps. The ILEC and Staff will collaborate to address any discrepancies.

The Commission envisions the level of Commission involvement will be entirely up to each individual ILEC. Once both the ILEC and Staff agree the electronic map is accurate, the map can be submitted to the FCC by either the ILEC or the Commission. A Carrier opting to submit its own boundary maps to the FCC would need to first ensure the map submitted conforms to the map maintained by the Commission.

The Commission also seeks comment on the following issues regarding the mechanics of creating a comprehensive electronic boundary map for Nebraska:

1. The methodology and options for collection and creation of Nebraska electronic boundary maps as expressed above. Is the process as proposed reasonable? Sufficient?
2. The Commission currently maintains the official ILEC boundary maps in paper format. Does the Commission have the requisite authority to mandate ILEC participation in the creation of electronic boundary maps at the Commission to replace the paper maps?
3. Whether a carrier may "opt out" of involvement in the creation of electronic boundary maps at the Commission and file its electronic boundary maps directly with the FCC?

4. If an ILEC may "opt out" of involvement in the creation of electronic boundary maps at the Commission and opts to instead file directly with the FCC, in the event there is discrepancy between the Commission's official map of the boundary and the map submitted by the non-participating ILEC to the FCC, what steps should be taken?
5. What process and procedures should be utilized by the Commission in the event discrepancies and disagreements arise between carriers regarding ILEC boundaries? How formal or informal should the process be? If there is some kind of formal dispute resolution process adopted by the Commission what should that process entail?

Policy Concerns

Many participants at the workshop raised questions and concerns regarding certain aspects of the FCC Report, many were shared by the Commission and Staff. We seek comment on concerns with the procedures/policy contained in the Report, including, but not limited to, the following issues:

1. The inclusion in the Report of a requirement that officers of a LEC certify under penalty of perjury the accuracy of the maps submitted to the FCC to the best of his/her knowledge.³
2. The effect of the Report regarding the Study Area freeze instituted by the FCC and the waiver process currently in place. Will a waiver process be included to make any updates to a boundary map or will LECs be required to pay the substantial filing fee to seek a waiver to make any changes to the current boundary maps? Will a waiver be necessary at all for changes made at a level smaller than the exchange level?
3. Is the requirement included in the Report to update data with any changes in the boundaries every year and recertification by all LECs of the boundaries every two years desirable? Reasonable? How does this impact the Study Area freeze issue addressed above?
4. The FCC utilized an accuracy requirement for the electronic boundary maps submitted of within 40 feet.⁴ Is within 40 feet a reasonable margin of error? Should there be different standards of accuracy for rural vs.

³ Report at Appendix A, Section I.

⁴ Report at pg. 5, footnote 33.

urban areas of the country? How do we define rural and urban for purposes of the boundary maps?

Any interested parties wishing to comment on the proposals contained in this order shall file comments on or before **March 22, 2013**. Parties filing comments shall file one (1) original with five (5) paper copies and one (1) electronic copy emailed to deena.ackerman@nebraska.gov and nichole.mulcahy@nebraska.gov.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that interested parties shall file comments on or before March 22, 2013. Commenting parties shall file one (1) original and five (5) paper copies along with one (1) electronic copy. Electronic copies should be emailed to nichole.mulcahy@nebraska.gov and deena.ackerman@nebraska.gov.

MADE AND ENTERED at Lincoln, Nebraska, this 20th day of February, 2013.

COMMISSION
COMMISSIONERS CONCURRING:

NEBRASKA PUBLIC SERVICE

Chair

ATTEST:

Executive Director